

REMARKS

Claims 1-15 were examined in the Office Action mailed September 21, 2005, with claims 16-19 standing withdrawn pursuant to Election/Restriction Requirement.

The Applicant acknowledges with appreciation the Examiner's indication that claims 3-5 and 9-10 recite patentable subject matter. In order to advance the present case to issuance, the Applicant has amended claim 1 to incorporate the limitations of its dependent claim 3. A conforming amendment has been made, canceling claim 3 without prejudice to the subject matter therein. Because all of claims 2 and 4-15 ultimately depend from claim 1, these claims have also been rendered allowable by the amendment to claim 1.

The only remaining issues identified in the September 21, 2005 Office Action are the pending rejections under 35 U.S.C. § 112, first and second paragraphs.

The § 112, first paragraph, rejection regarding enablement of solutions containing other than ash or dust has been rendered moot by the amendment to claim 1, which now recites: "wherein said mixture comprises a water solution having an increased density, said increased density resulting from mixing ash or dust from a recovery process with the water."

The § 112, second paragraph, rejection of claims 1-15 as indefinite for use of the term "increased density" is respectfully traversed. Although the amendment to claim 1 also rendered this rejection moot (by reciting specifically how the increased density is achieved), for the record the Applicant must state

that this amendment was not made for the purpose of overcoming the pending § 112, second paragraph rejection (rather, the amendment was for the purpose of placing the claims in condition for allowance by incorporation of the limitations of allowable claim 3).

The Applicants respectfully submit that the claims, when read in the context of the Specification as required, are sufficiently definite. For example, the Specification describes at ¶¶ [0014]-[0019] how the relative differences in densities provides the desired improved separation performance, and provides specific examples of constituents to be added to the solution to achieve the desired density differences. In the context of this disclosure, the objected-to language “a water solution having an increased density” is sufficiently definite because one of ordinary skill in the art would readily understand the relative density requirements of the present invention and thus would be able to readily ascertain the scope of the claims (including claim 6’s reference to a water solution which is denser than pure water (“from about 1000 kg/m³”). *Accord*, MPEP § 2173.02 (“When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow the claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire.” (emphasis in original)).

In view of the foregoing, reconsideration and withdrawal of the pending

§ 112 rejections is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicants respectfully submit that claims 1-2 and 4-15 are in condition for allowance. Early and favorable consideration and issuance of a Notice of Allowance for these claims is respectfully requested.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #038724.53972US).

Respectfully submitted,

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